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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/630,266	07/30/2003	Daniel A. Young	59316-001	8705

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IP PATENTS  
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EXAMINER

RICHARDSON, JOHN A

ART UNIT	PAPER NUMBER
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3641

DATE MAILED: 02/09/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

10/630,266

Applicant(s)

YOUNG, DANIEL A.

Examiner

John Richardson

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 30 July 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) 2-9, 14-22 and 29-41 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1, 10-13, 23, 27 and 42 is/are rejected.
- 7) ☒ Claim(s) 24-26, 28 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. §§ 119 and 120**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
- a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 1.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: \_\_\_\_\_.

**DETAILED ACTION**

***Non Final Rejection***

1). This application contains claims directed to the following patentably distinct species of the claimed invention:

X. The embodiment wherein the plug device is threaded as disclosed in Figures 1-6 (includes claims 2-3, 14-22).

Y. The embodiment wherein the plug device is in the form of balls as disclosed in Figures 7-13 (includes claims 4-9, 29-41).

Z. The embodiment wherein the plug device is in the form of pins / protrusions as disclosed in Figures 14-16 (includes claims 10-12, 23-28).

Applicant is required under 35 U.S.C. 121 to elect a single disclosed species for prosecution on the merits to which the claims shall be restricted if no generic claim is finally held to be allowable. Currently, claims 1, 13, 42 are considered to be generic.

Applicant is advised that a reply to this requirement must include an identification of the species that is elected consonant with this requirement, and a listing of all claims readable thereon, including any claims subsequently added. An argument that a claim is allowable or that all claims are generic is considered nonresponsive unless accompanied by an election.

Upon the allowance of a generic claim, applicant will be entitled to consideration of claims to additional species which are written in dependent form or otherwise include all the limitations of an allowed generic claim as provided by 37 CFR 1.141. If claims

are added after the election, applicant must indicate which are readable upon the elected species. MPEP § 809.02(a).

Should applicant traverse on the ground that the species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C. 103(a) of the other invention.

2). The applicant's attorney, James Young (303-447-7771) in a telephone call dated January 23 2003, elected without traverse species Z.

Claims 1, 10-13, 23-28, and 42 are examined in this Office action.

3). Claims 2-9, 14-22, 29-41 are withdrawn from further consideration pursuant to 37 CFR 1.142(b) as being drawn to a nonelected species, there being no allowable generic or linking claim. Election was made **without** traverse in the above telephone conversation.

4). The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

5). The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6). Claims 1, 13, 42 are rejected under 35 U.S.C.102(b) as being anticipated by Waters (U.S. 5,860,241).

The reference is a firearm gun lock (item 10) system that reads on the applicant's claim by disclosing a gun barrel (item 16), a rigid rod that is longer than the said barrel and protruding from the said barrel (item 42), a firing chamber (item 26), a plug sized to fit and be removable from the said firing chamber (item 20).

7). Claims 1, 13, 42 are rejected under 35 U.S.C.102(b) as being anticipated by Benkovic (U.S. 5,357,704).

The reference is a firearm gun lock (item 10) system disclosing a gun barrel (item 10), a rigid rod that is longer than the said barrel and protruding from the said barrel based on the disclosed relative measurable sizes (item 14), a firing chamber (item 11), a plug sized to fit and be removable from the said firing chamber (item 27).

8). Claims 1, 13, 42 are rejected under 35 U.S.C.102(b) as being anticipated by Healey et al (U.S. 4,969,284).

The reference is a firearm gun lock (item 11) system disclosing a gun barrel (item 10), a rigid rod that is longer than the said barrel and protruding from the said barrel (item 12), a plug sized to fit and be removable from a firing chamber (item 14), and the reference

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discloses a means for attaching a locking mechanism through a hole in the said rod (items 26, 27, 28).

9). Claims 1, 13, 42 are rejected under 35 U.S.C.102(e) as being anticipated by Hickerson (U.S. 6,526,684).

The reference is a firearm gun lock (item 10) system disclosing a gun barrel (item 14), a rigid rod that is longer than the said barrel and protruding from the said barrel (item 24), the said rod having an engagement structure (item 34), a firing chamber (item 20), a plug sized to fit and be removable from the said firing chamber (item 30), the reference discloses a plurality of longitudinal / linear slots in said plug (items 32) and protrusion / shoulder details (items 37), relating to claims 10-12, the reference discloses an inner shaft embodiment (item 52) with an outer tube arranged telescopically over the said inner shaft (item 50) and a tool / operating mechanism as shown in Figure 7.

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10). Claims 1, 13, 42 are rejected under 35 U.S.C.102(e) as being anticipated by McLaren (U.S. 6,560,910).

The reference is a firearm gun lock (item 10) system disclosing a gun barrel (item 13), a rigid rod that is longer than the said barrel and protruding from the said barrel (item 42), a firing chamber (item 16), a plug sized to fit and be removable from the said firing chamber (item 28), the reference discloses an inner shaft embodiment (item 42) with an outer tube arranged telescopically over the said inner shaft (item 17), the reference discloses a knurled actuator knob (item 23), the reference discloses an external shaft enclosing the said rod (item 17) controlling the axial / longitudinal movement of the said rod (see Figures 4, 7).

11). Claims 1, 10, 13, 42 are rejected under 35 U.S.C. 102(b) as being anticipated by Haber et al (U.S. 5,664,358).

The reference is a firearm gun barrel lock (item 1) system disclosing a rigid rod that is longer than the said barrel and protruding from the gun barrel, a plug sized to fit in the gun firing chamber and be removable from the said firing chamber and forming an engagement structure surface (item 10), the reference discloses an inner rod embodiment (item 22) with an outer tube (item 6), arranged telescopically over the said inner rod the reference discloses a knurled actuator housing / knob (item 62), the reference discloses that the said outer tube (item 6) enclosing the said rod (item 22) controlling the axial / longitudinal movement of the said rod (see Figures 3, 4), relating



to claim 10, the reference discloses the said engagement structure incorporates a slot (item 20) and protrusions at the end of the said rod item 22 (see Figures 3, 4).

11). Claims 11 to 12 are rejected under rejected under 35 U.S.C. 103(a) as being unpatentable over Haber et al (U.S. 5,664,358) as applied to claims 1, 10, 13, 42, in view of Woford (U.S. 5,315,778).

The primary reference discloses claimed invention except for citing the claims 11, 12 limitations for engaging an operating tool at the distal end of the inner rod, item 22 of Haber et al. The secondary reference discloses that it is well known in the gun safety art to provide for hexagonal wrench tools to operate firearm chamber plugs. It would have been obvious to one of ordinary skill in the art at the time of the invention to have incorporated the Woford detail, item 23, with tool, item 25, to the Haber et al, item 64, in order to manually actuate the device more effectively by applying additional torque than that from a thumb / finger action.

12). Claims 23, 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Parker (U.S. 2,327,334).

The reference discloses a firearm lock comprising a rigid barrel rod (item 7) extending out the said firearm barrel (Figure 1) with a pair of pins configured to protrude outward (items 14) from the longitudinal axis of the said firearm, a plug (item 12) sized to fit in

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the firearm firing chamber (item 8), and the said pins (items 14) configured to removably engage the barrel rod (see page 4, Column 1, lines 17-26), relating to claim 27, the reference a knurled knob (item 11) connected to the said rod (item 7).

13). Claims 24-26, 28 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

14). The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

15). Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Richardson whose telephone number is (703) 305 0764. The examiner can normally be reached on Monday to Thursday from 7.00 AM to 4.30 PM. The examiner can also be reached on alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Carone, can be reached on (703) 306 4198. The fax phone number for the organization where this application or proceeding is assigned is (703) 305 7687.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308 1113.

John Richardson, PE,

February 04 2004.



MICHAEL J. CAPONE  
SUPERVISORY PATENT EXAMINER